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DECISION GRANTING PETITION

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NEW YORK, NY 10172

In re Application of
Hiroyuki Inoue, et al.
Application No. 08/796,519
Filed: February 7, 1997
Attorney Docket No. 684.2213-DIV

This is a decision on the petition filed May 1, 1998¹, requesting that the above-identified application be accorded a filing date of February 7, 1997, rather than the presently accorded filing date of February 6, 1997. Any inconvenience caused by the delay in responding to the petition is regretted.

Petitioners allege that the application was filed on February 7, 1997. In support of this contention, petitioners have supplied with this petition a copy of a return receipt post card bearing an Official date stamp of February 7, 1997 acknowledging receipt of the following correspondence: specification and claims, 116 pages; an executed Oath or Declaration and Power of Attorney; 45 sheets of formal drawings; a check for \$770.00; a Preliminary Amendment; IDS; PTO Form 1449; and submission of corrected formal drawings. The post card receipt also indicates that the correspondence was filed by hand. Petitioners also state that the postcard receipt corresponds directly with all of the undersigned's records, including courier logs, docketing records, and correspondence with Applicants, however, these records were not submitted.

A review of the application file reveals that the above listed correspondence was date stamped with an Official receipt date of February 6, 1997. Further, the filing fee of \$770.00 was processed with a mail room receipt date of February 6, 1997. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the correspondence comprising the above-identified patent application was filed in the Patent

¹ A copy of the petition was filed September 4, 1998, with a copy of a post card receipt bearing an Official date stamp of May 1, 1998, and acknowledging receipt of a Petition to Correct Filing Date. Therefore, the petition is considered as filed on May 1, 1998.

and Trademark Office on February 7, 1997.

In view of the above, the petition is **granted**.

No petition fee is due and no petition fee has been charged.

The application file is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of February 7, 1997.

Thereafter, the application will be returned to Technology Center Art Unit 2813 for consideration by the examiner of the amendment filed January 19, 1999.

Telephone inquiries may be directed to Petitions Attorney, Jennifer M. Hayes, at (703) 306-5608, or if unavailable, the undersigned at (703) 305-9285.



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jmh